

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1127 OF 1997

The State of Maharashtra ..Appellants
versus
Parwat Taty Shinde ..Respondent

AND

FIRST APPEAL NO. 1128 OF 1997

The State of Maharashtra ..Appellants
versus
Kashinath Punjaji Shinde ..Respondent

AND

FIRST APPEAL NO. 1129 OF 1997

The State of Maharashtra ..Appellants
versus
Valuba Punja Kale ..Respondent

AND

FIRST APPEAL NO. 1130 OF 1997

The State of Maharashtra ,.appellants
versus
Madhav Parwat Shinde ..Respondent

AND

FIRST APPEAL NO. 1131 OF 1997

The State of Maharashtra ..Appellants

versus

Vishwanath Deoram Thomare ..Respondent

AND

FIRST APPEAL NO. 1132 OF 1997

The State of Maharashtra ..Appellants

versus

Eknath Rajaram Shinde ..Respondent

AND

FIRST APPEAL NO. 1133 OF 1997

The State of Maharashtra ..Appellants

versus

Dattatray S. Shinde & Ors. ..Respondents

AND

FIRST APPEAL NO. 1134 OF 1997

The State of Maharashtra ..Appellants

versus

Dattatray P. Shinde & ors. ..Respondents

AND

FIRST APPEAL NO. 1135 OF 1997

The State of Maharashtra ..Appellants

versus

Kisan Punjaji Shinde ..Respondents

Mr. K. K. Tated, AGP for the Appellants - State.

Mr. Mr. K.S. Patil i/b. P. N. Joshi for Respondents.

CORAM : D. G. DESHPANDE, J.

DATE : 21ST FEBRUARY, 2005

ORAL ORDER :

1. All these Appeals have been filed by the State challenging the judgment of the Reference Court under the Land Acquisition Act.

2. Group of Land References viz. L.R. Nos. 69, 70, 71, 72, 73, 74, 75, 76, and 77 all of 1988 were decided by the common judgment. The claimants were owners of the land situate at Village Shinde, Taluka Chandwad, Dist: Nashik. The date of notification under section 4 was 22.9.1981 for

construction of percolation tank at Village Shinde. Award came to be passed by SLAO on 28.6.1986 but since according to the claimants the compensation was inadequate, they filed their respective References.

3. The claimants claimed Rs.37,500/- per hectare for Jirayat land and Rs.1,25,000/- for Bagayat land. Reference Court awarded Rs.37,500/- per hectare for Bagayat land, Rs.25,000/- per hectare for Jirayat land and Rs.2,000/- per hectare for potkharaba land. This order of the Reference Court is under challenge in all these Appeals.

4. The learned AGP contended that even if the sale deeds relied upon by the claimants are taken into consideration, compensation awarded has to be treated as on higher scale.

5. The claimants have examined Bhika Shinde. He had sold 32R of land for Rs.17,000/- in the year 1981. The rate comes to Rs.53,000/- per hectare. The sale deed was of the period of notification. The second sale deed was proved by witness Kashinath. It was for 20R of the land for Rs.25,000/- but sale deed was registered showing consideration of Rs.10,000/- in 1983, therefore the rate comes to Rs.50,000/- per hectare. In both the

sale deeds, however the land was Bagayat land and that was mentioned in the Sale Deeds themselves. Only one claimant i.e. C.W. 1 Prakash Shinde in L.R. No. 73/88 deposed at Exhibit 13 that some part of his land was irrigated and other part was unirrigated. Other claimants did not lead any evidence. The court found that in 7/12 extract there was no mention that irrigated crops were raised in the fields.

6. The learned AGP contended that these sale instances relied upon by the claimants was for small piece of land, therefore the price given by the purchasers for a small piece of land could not be equated for larger areas, which were acquired under same Notification. The Reference Court came to the conclusion that if there is no evidence in the form of comparable sale transactions, then the theory of advantageous due to some facilities and deduction on other counts was required to be considered. But the court accepted Rs.37,500/- per hectare as the price of bagayat land giving deduction of 25%, and Rs.25,000/- per hectare for Jirayat land and Rs.2,000/- per hectare for potkharaba land.

7. Learned AGP contended that number of pieces of land were acquired under the same notification from different land owners and when there was no

evidence whether their lands were Bagayat land or Jirayat land and when only few claimants entered the witness box, and produced sale deed for a very small piece of land, then awarding compensation at the rate given by the trial court, was not proper.

8. Counsel for the respondents - claimants could not meet the arguments of the learned AGP. However, he contended that the compensation awarded by SLAO was totally inadequate. No other submission was made by the learned counsel for the Claimants - Respondents.

9. In view of this position and since the sale deed proved by the claimants was only in respect of 32 R of land then considering this aspect the compensation awarded is required to be reduced. Secondly, there is no evidence that the acquired land was Bagayat land because 7/12 extract does not support that contention. Therefore, in the circumstances all the land has to be treated as Jirayat land.

10. In the result, I pass the following order:

ORDER

All the appeals are partly allowed.

. Compensation awarded to the claimants is reduced to Rs.20,000/- per hectare from Rs.25,000/- per hectare. No order as to costs in all the Appeals.

. The amount in excess that has been received by the claimants - respondents, in respective Appeals will be returned by them to the State Government within six weeks from today. If the amount is not so returned, the Respondents-Claimants will be liable to pay interest at the rate of 9% per annum for the first year and at the rate of 15% per annum for next years, if there is delay in payment.

21.02.2005

(D.G. DESHPANDE, J.)

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